IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH JAIPUR

D.B. Income Tax Reference Application No.14/1994

CIT Jaipur vs. Maliram Puranmal, Jaipur

Date of Order : 6th September, 2016

HON'BLE MR. JUSTICE K.S. JHAVERI
HON'BLE MR. JUSTICE BANWARI LAL SHARMA

Mr. Anuroop Singhi, for the appellant.
Mr. Siddharth Ranka for the respondents.

JUDGMENT

Instant reference application is directed against order of the Income Tax Appellate Tribunal and indisputably the tax effect as brought to our notice, is less than Rs.20 lac.

A Circular No.21/2015 has been issued by the Central Board of Direct Taxes dated 10.12.2015 in exercise of its power u/sec. 268A (1) of the Income-tax Act 1961 in supersession of the Boards instruction No.5/2014 dt.10.7.2014 regularising the monetary limits for filing the appeal by the Revenue before the Tribunal, High Courts and Apex Court with an object for reducing litigation. Relevant para nos.3, 8, 9 and 10 reads ad infra :-

> "3. Henceforth, appeals/SLPs shall not be filed in cases where the tax effect does not exceed the monetary limits given hereunder :-

S. No.	Appeals in Income-tax matters	Monetary Limit (in Rs.)
1	Before Appellate Tribunal	10,00,000/-
2	Before High Court	20,00,000/-
3	Before Supreme Court	25,00,000/-

It is clarified that an appeal should not be

filed merely because the tax effect in a case exceeds the monetary limits prescribed above. Filing of appeal in such cases is to be decided on merits of the case.

4. xxx xxx xxx

5. xxx xxx xxx

6. xxx xxx xxx

7. xxx xxx xxx

8. Adverse judgments relating to the following issues should be contested on merits notwithstanding that the tax effect entailed is less than the monetary limits specified in para 3 above or there is no tax effect:

(a) Where the Constitutional validity of the provisions of an Act or Rule are under challenge, or

(b) Where Board's order, Notification, Instruction or Circular has been held to be illegal or ultra vires, or

(c) Where Revenue Audit objection in the case has been accepted by the Department, or

(d) Where the addition relates to undisclosed foreign assets/bank accounts.

9. The monetary limits specified in para 3 above shall not apply to writ matters and direct tax matters other than Income tax. Filing of appeals in other Direct tax matters shall continue to be governed by relevant provisions of statute & rules. Further, filing of appeal in cases of Income Tax, where the tax effect is not quantifiable or not involved, such as the case of registration of trusts or institutions under section 12 A of the IT Act, 1961, shall not be governed by the limits specified in para 3 above and decision to file appeal in such cases may be taken on merits of a particular case.

10. This instruction will apply retrospectively to pending appeals and appeals to be filed henceforth in High Courts/Tribunals. Pending appeals below the specified tax limits in para 3 above may be withdrawn/not pressed. Appeals before the Supreme Court will be governed by the instructions on this subject, operative at the time when such appeal was filed."

The extract of the paragraphs referred to supra, clearly indicates that the limits specified in para 3 may not apply to certain exceptions specified in para 8, at the same time para nos.9 and 10 of the Circular if read conjointly, clearly envisages that the present instructions will apply retrospectively to all the pending appeals and appeals to be filed henceforth in High Courts/Tribunals, subject to exceptions where the tax effect even if is less than Rs.20 lac, can be

preferred in High Courts.

Taking note of the CBDT Circular dt. 10/12/2015 and the tax effect which indisputably in the instant case is less than Rs.20 lac, much less than what has been prescribed for filing appeals before the High Courts, deserves to be dismissed as not pressed. However, it is made clear that the substantial questions of law raised in the instant reference application, if any, are left open to be examined in an appropriate proceeding, if arises in future. At the same time we consider it appropriate to observe that if the reference application falls in any of the exceptions as referred to in the Circular dt. 10/12/2015, the Revenue will be at liberty to move an application for recalling of the order if so advised.

Accordingly, in the light of the CBDT Circular dated 10.12.2015 the Income Tax reference application stand dismissed as not pressed.

(BANWARI LAL SHARMA),J. **(K.S.JHAVERI),J.**

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